

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF OKLAHOMA**

1) TOMMY DALE ROBERTSON , an individual)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-21-702-G
)	
)	
2) DAVID LEE MOORE , an individual, and)	
3) THE UNITED STATES OF AMERICA)	
)	
Defendants.)	

COMPLAINT

COMES NOW the Plaintiff, Tommy Dale Robertson, for his cause of action against the Defendants, David Lee Moore and the United States of America acting as the United States Marshall Service (USMS), alleges and states as follows:

PARTIES

1. Plaintiff, Tommy Dale Robertson, is a resident of Oklahoma County, State of Oklahoma, which is located within the federal judicial district for the Western District of Oklahoma.
2. Defendant, David Lee Moore, is a resident of Oklahoma County, State of Oklahoma, which is located within the federal judicial district for the Western District of Oklahoma.
3. Defendant, The United States of America was, during times material to this complaint, acting under the color of federal law and operating in Oklahoma

County, which is located within the federal judicial district for the Western District of Oklahoma.

JURISDICTION AND VENUE

4. This is a civil action seeking money damages against defendants for their negligent acts that results in personal injury and property damage to Plaintiff. Defendant Moore was operating within the scope of his office of employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. Jurisdiction is invoked pursuant to 28 U.S.C. § 1346.
5. Venue is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1402 because the Plaintiff and Defendant both reside in this judicial District and because the substantial part of the events giving rise to Plaintiff's claims occurred in Oklahoma County, State of Oklahoma, which is in this District.
6. Notice was properly given under the Federal Governmental Tort Claims Act. The events complained of herein occurred on or about July 24, 2020. Notice, as required by 28 U.S.C. § 2401 to be provided within two (2) years after such claim accrues, was properly mailed to the agents for the United States Marshall Service (USMS) and received on October 13, 2020. Notice of claim denial was mailed on January 13, 2021 and suit was timely filed on July 13, 2021, within the six (6) month limit following the denial of the claim per 28 CFR § 14.9.

FACTUAL ALLEGATIONS

COUNT ONE: NEGLIGENCE

7. On or about July 24, 2020, at or near E. Wilshire Blvd. and Musgrave Blvd., Oklahoma County, Oklahoma City, State of Oklahoma, Defendant, David Lee Moore, an on-duty U.S. Marshall, while conducting a stakeout, was sitting in his stationary vehicle in a private driveway (at 500 E Wilshire) facing north on the south side of the east-west running Wilshire Avenue, just east of Musgrave Blvd.
8. Plaintiff Tommy Dale Robertson was traveling in his vehicle eastbound on Wilshire Blvd. in the outside lane.
9. The target of Defendant Moore's stakeout was seen by defendant traveling west on Wilshire Blvd.
10. Defendant Moore, attempting to execute a left turn and proceed west to follow target, pulled out of the private drive on the south side of Wilshire Blvd, and directly into the path of the Plaintiff traveling eastbound.
11. The front-left end of Plaintiff's vehicle collided with the left side defendant's vehicle.
12. Defendant Moore owed a duty to Plaintiff established by the The Oklahoma Highway Safety Code, to wit Rules of the Road pursuant to 47 Okl. St. Ann. Ch. 11, 11-404 and/or 11-901 to yield right-of-way to all vehicles on roadway when attempting to enter or cross the roadway from a private drive or roadway.
13. Oklahoma traffic regulations are specifically designed to protect passengers such as Plaintiff from the type of collision that occurred between Plaintiff and Defendants.

14. Defendant Moore breached these duties owed to Plaintiff by driving in a careless and wonton manner when he pulled out of the private drive into the path of Plaintiff, who had the right-of-way.

15. As a result of the collision, the vehicle operated by Plaintiff was damaged.

16. As a direct and proximate result of the negligence of the defendants David Lee Moore and the United States of America, the Plaintiff, Tommy Dale Robertson, has sustained bodily injuries; has incurred and will incur current and future medical expenses; and has incurred property damage.

WHEREFORE, the Plaintiff, Tommy Dale Robertson, pray for judgment against the Defendants, David Lee Moore and the United States of America, for damages in excess of \$75,000.00, plus interest, attorney fees, costs and all such other and further relief for which the Plaintiffs may be entitled.

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